
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Church Point Ministries, Inc.)	
Station WNDL (AM))	File No. EB-00-OR-051
Baton Rouge, Louisiana)	NAL/Acct.No. X3262008

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 21, 2000

By the Enforcement Bureau, New Orleans Field Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Church Point Ministries, Inc. ("Church Point"), licensee of station WNDL (AM), Baton Rouge, Louisiana, has apparently violated sections 17.4(a)(2), 73.49, and 73.3526(a)(2) of the Commission's Rules ("Rules") for failure to register the station's antenna structures by July 1, 1998, failure to provide an effective locked fence or other enclosure around the base of any antenna having radio frequency potential at its base, and failure to maintain a public inspection file.¹ We conclude that Church Point is apparently liable for a forfeiture in the amount of fifteen thousand dollars (\$15,000).

II. BACKGROUND

2. On August 17, 1999, an agent from the Commission's New Orleans Field Office ("Field Office") inspected the four antenna structures for station WNDL (AM) and found that the antenna structure registration numbers were not displayed. A check of the Commission's databases revealed that these antenna structures had not been registered.

3. On August 20, 1999, the Field Office sent a Notice of Violation ("NOV") to Church Point for failure to register the antenna structures. On October 6, 1999, Church Point submitted a written reply. Subsequently, on October 14, 1999, a Field Office agent spoke with a representative of Church Point by telephone during which Church Point's representative admitted that Church Point owned the antenna structures in question and stated that they would register the structures immediately.

4. On April 13 and 25, 2000, New Orleans Field agents conducted a second inspection of station WNDL (AM). During this inspection, the Field agents noted numerous violations of the Rules including, failure to register the four antenna structures; failure to provide effective locked fences or other enclosures around the base of the antenna structures; and failure to maintain a local public inspection file for the station.

5. On May 11, 2000, the Field Office issued a NOV to Church Point citing the above

¹ 47 C.F.R. §§ 17.4(a)(2), 73.49, and 73.3526(a)(2).

mentioned violations. On May 26, 2000, Church Point filed a reply addressing the various violations. Specifically, Church Point stated that it would register the antenna structures by May 31, 2000, and it had added new locks and chains to the fences around the antenna structures.

III. DISCUSSION

6. Section 17.4(a)(2) of the Rules states, “[f]or an existing antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996, the owner must register the structure prior to July 1, 1998.”² At the time of the April 13, 2000 inspection, no application had been filed with the Commission to register the station’s four antenna structures, in spite of the fact that Church Point previously had been notified of its obligation to register the antenna structures during a previous inspection and in a previous NOV. Additionally, a Field Office agent spoke with a representative of Church Point by telephone on October 14, 1999. At that time, the Church Point representative stated that the antennas would be registered immediately, but had not done so six months later, as of the April 2000 inspection. *See e.g., La Favorita, Inc.*, EB-00-AT-528 (EB, Atlanta Office June 22, 2000) (Issued \$7,000 forfeiture for, among other things, failure to register antenna structure).

7. Section 73.49 of the Rules requires that antenna towers having radio frequency potential at the base must be enclosed within effective locked fences or other enclosures.³ At the time of the April 13, 2000 inspection, one of the individual fences surrounding each of the four antenna towers had its gate standing open. While the other three gates were closed and locked, the Field Office agent found that each could be easily opened by a simple push on the gate. Although the property did have a perimeter fence, the driveway gate had completely fallen off its hinges and was lying on the ground. Additionally, this fence was not complete on all sides of the property making it ineffective in preventing access to the towers. *See e.g., Reier Broadcasting Company, Inc.*, EB-00-ST-004, (EB, Seattle Office, February 29, 2000) (\$7,000 Notice of Apparent Liability issued for violation of 47 C.F.R. Section 73.49), *forfeiture order issued, Reier Broadcasting Company, Inc.*, DA 00-1454 (EB, released June 29, 2000) (\$7,000 forfeiture order). In both cases, the licensees failed to maintain an effective locked fence around their antenna towers.

8. Section 73.3526(a)(2) of the Rules states in part, “[e]very permittee or licensee of an AM, FM, or TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraph (e)(13) of this section.”⁴ In addition, “every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(12) and (e)(14) of this section. . . .”⁵ At the time of the April 13, 2000 inspection, Church Point was unable to locate any of the materials required to be in the public inspection file. Subsequently, in its May 26, 2000 reply to the NOV, Church Point stated that a local public inspection file had been constructed and was available. Further, it claimed that while the public inspection file documents were on hand, the documents were not organized in a manner for easy inspection. *See e.g., WGUL-FM Inc.*,

² 47 C.F.R. §17.4(a)(2).

³ 47 C.F.R. §73.49.

⁴ 47 C.F.R. § 73.3526(a)(2).

⁵ *Id.*

Radio Station WINV(AM) Inverness, FL, DA 00-897 (EB April 21, 2000) (\$7000 forfeiture assessed for, among other things, violation of 47 C.F.R. Section 73.3526).

9. Based on the evidence before us, we find that Church Point willfully⁶ and/or repeatedly violated Sections 17.4(a)(2), 73.49, and 73.3526(a)(2) of the Rules. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"), the base forfeiture amount for failure to register the antenna structures (failure to file required forms) is \$3,000, the base forfeiture amount for failure to maintain an effective antenna tower fence is \$7,000, and the base forfeiture amount for failure to maintain a public inspection file is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act"), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷ Taking these factors into account, we are reducing the forfeiture for the Public Inspection File violation to \$5,000, as many of the documents in question may have been available at the station, but not assembled in an organized manner. Applying the *Forfeiture Policy Statement* and statutory factors to the instant case, a \$15,000 forfeiture is warranted.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ Church Point Ministries, Inc., is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for violating Sections 17.4(a)(2), 73.49, and 73.3526(a)(2) of the Rules, 47 C.F.R. §§ 17.4(a)(2), 73.49, and 73.3526(a)(2).

11. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules,¹⁰ within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, Church Point Ministries, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the

⁶ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act. . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁷ 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01 (discussion of upward and downward adjustment factors).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

¹⁰ 47 C.F.R. § 1.80.

order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. X3262008.

13. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – TPSD, NAL/Acct. No. X3262008, and must include the NAL/Acct. No. X3262008.

14. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

15. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹¹

16. **IT IS FURTHER ORDERED THAT** a copy of this **NOTICE OF APPARENT LIABILITY** shall be sent by Certified Mail, Return Receipt Requested, to Church Point Ministries, Inc., 3000 Tecumseh Street, Baton Rouge, Louisiana 70805.

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins
District Director
New Orleans Field Office

¹¹ See 47 C.F.R. § 1.1914.